

This letter rescinds part of ST 00-0087-GIL in regards to the volume production exclusion from the Department's special order rule set out in 86 Ill. Adm. Code 130.2115. (This is a GIL.)

December 30, 2005

Dear Xxxxx:

This General Information Letter is sent to you to rescind part of a General Information Letter (ST 00-0087-GIL) that was sent to you on April 21, 2000. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

In our previous letter to you referenced above, we discussed the exclusion from the special order rule set out in subsection (a)(4) of 86 Ill. Adm. Code 130.2115 when 50 or more identical items are produced. This letter rescinds that part of the previous letter. As noted in our previous letter, if a person sells 50 or more identical items in a single order or multiple orders, those sales will be deemed to be volume production and will be subject to Retailers' Occupation Tax liability rather than Service Occupation Tax or Use Tax liability. See subsection (a)(4) of 86 Ill. Adm. Code 130.2115. The rationale for the volume production exclusion is that even if an item qualifies as a special order item, subsequent sales by the seller of the same item without material change (so-called repeat orders) are subject to the Retailers' Occupation Tax because the skill that is involved after the first item is made is production skill and not specialized engineering and design skill.

We want to explain the volume production exclusion as it applies to multiple orders and subsequent orders of identical items. Multiple orders are considered orders for identical items that are placed on the same day. A subsequent order is any order dated after the date of the initial order of the identical item or items. For example, a special order that meets the test under subsection (b) of Section 130.2115 is placed with a roof truss supplier for 25 identical roof trusses on July 1st. This order is subject to either Service Occupation Tax or Use Tax liability depending upon the serviceman's tax base and specific circumstances. A subsequent order is placed with that roof truss supplier on July 2nd for 10 more identical roof trusses. The subsequent order on July 2nd will be subject to Retailers' Occupation Tax liability because the skill that is involved after the first trusses were made is production skill and not specialized engineering and design skill. See 86 Ill. Adm. Code 130.2115(a)(4). Please note that subsequent orders include any orders provided to that supplier from a person other than the person who placed the initial order as long as there are no material changes to the item or items being produced.

In addition to these clarifications, we also want to point out that we have become aware that the roof truss industry has evolved and stock or standard roof trusses are now commonly available from some suppliers. We understand that many other roof trusses are still created on special order and those sales would be subject to Service Occupation Tax or Use Tax liability if those transactions meet the test set out in subsection (b) of 86 Ill. Adm. Code 130.2115.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
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TDC:msk